

State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

Date: February 1, 2001

To: County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
County Health Officers
Family Care, Care Maintenance Organizations Directors
Family Care Resource Centers Directors

From: Joe Leean
Secretary

Re: Administrative Simplification Provisions of the Federal Health Insurance Portability
and Accountability Act (HIPAA) of 1996

This memo is to alert you to the probable impact of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The primary purpose of HIPAA is to improve the portability and continuity of health insurance coverage. However, it also recognizes the high cost of health care administration and the potential for automation to reduce it. The Administrative Simplification provisions of HIPAA establish standards for the electronic exchange and management of health information, including billing of health services. As providers and possibly payers of what are considered health care services, many county agencies may be impacted by HIPAA.

The federal Department of Health and Human Services (DHHS) has begun issuing the following rules to implement these provisions. Generally, impacted organizations have 24 months from the effective date of each rule to comply.

- Final standards for the data content and interchange format of 8 types of **electronic transactions** were effective October 16, 2000.
- Final standards for the privacy of health information have been issued and will be effective late February 2001.
- Final standards for the security of health information are expected in the first quarter of CY2001.
- Final rules establishing national **identifiers** for providers and employers are expected in the first quarter of CY2001.
- Draft standards for **attachments to health claims** and national identifiers for health plans are expected in the first half of CY2001.
- A draft rule on enforcement is expected in the second half of CY2001.

The greatest impact is expected from the standards on electronic transactions, privacy, and security. The Department of Health and Family Services (DHFS) is currently identifying the programs we supervise or administer which we believe will be impacted by the first final rule published, that for electronic transactions.

Certain payers of health care are considered "health plans" and subject to HIPAA. Medicaid and programs involving a Medicaid home and community-based waiver are included. Any provider of health care is subject to HIPAA if they conduct specified transactions with payers electronically.

Providers are exempt from the transaction standards for paperbased processes. However, there may be compelling reasons beyond compliance with the law for converting to standard electronic transactions, such as increased efficiency or consistency with business partners who convert. Counties should pay particular attention to where they may be considered a health plan, because in this role they have no option but to perform certain functions using the standard electronic transactions.

Advocates of HIPAA calculate a large payback due to increased efficiencies of standardized electronic transactions. From both the provider and the health plan (payer) perspectives, handling claims and related transactions is many times less costly when done electronically. Perhaps because of these benefits, the HIPAA law provides no funding for converting existing manual or electronic systems to comply with the standards.

DHFS believes that counties will be impacted by HIPAA as payers of health care in Medicaid home and community based waiver programs and, if they provide health care directly, as providers. To the extent they contract out services for which they are Medicaid certified, counties may also be impacted.

The recently released HIPAA rule on privacy includes clarification that most government programs that provide health care, directly or through grant, are not considered health plans. Language in this rule appears to limit governmental health plans to those of a few types specifically listed in the rule. It is now possible that, in terms of the electronic transactions rule at least, impacted programs are limited to Medicaid, Medicaid home and community-based waiver programs (such as CIP, COP-W, Family Care, Partnership/PACE), BadgerCare as Wisconsin's State Children's Health Insurance Program (SCHIP), and-"state high-risk pool" programs such as HIRSP. We are looking at whether any other DHFS supervised or administered programs, such as General Relief Medical, may also be considered state high-risk pools.

The Department is currently seeking confirmation of our assumptions from DHHS. However, because of the short implementation timetable, we cannot wait on absolute confirmation but are moving ahead with planning based on the information available, including advice of our legal staff. Counties should do the same, making use of all available information including your own legal counsel.

DHFS has begun discussions with the Wisconsin Counties Human Services Association (WCHSA) to ensure awareness and determine ways the Department can help counties assess HIPAA's impact. For the human service programs the Department supervises or administers, we will continue to seek federal rulings on HIPAA's impact. For those effected, we will collaborate with county agencies on plans to reach and test compliance. We have attached a brief summary of the Administrative Simplification provisions of HIPAA. Included are Internet sites that can be referenced. As we work with WCHSA representatives to assess the potential impact on counties, we will provide you with additional information, including contacts for impacted programs.

Attachment